

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re:
Bruce E. Kiernat,

Bankruptcy No. 03-35883

Debtor.

St. Paul Academy and Summit School,
the Alice French Trust, and the Richard
French Trust,

Plaintiffs/Appellants,

v.

Bruce E. Kiernat,

Defendant/Appellee.

**MEMORANDUM OPINION
AND ORDER**
Civil No. 05-2127 ADM

Adv. Pro. No. 03-3356

Thomas J. Flynn, Esq., Larkin, Hoffman, Daly & Lindgren Ltd., Minneapolis, MN, on behalf of Plaintiffs.

Bruce E. Kiernat, *pro se*.

This matter is before the undersigned United States District Judge on Plaintiffs St. Paul Academy and Summit School (“SPA”), the Alice French Trust, and the Richard French Trust’s (“Plaintiffs”) Motion for Rehearing [Docket No. 9] on the Order issued by this Court dated January 6, 2006 [Docket No. 8]. Defendant Bruce E. Kiernat (“Kiernat”) has also filed a Motion for Rehearing [Docket No. 11]. For the reasons set forth below, both Motions are denied.

Both parties make their Motions pursuant to Rule 8015 of the Federal Rules of Bankruptcy Procedure. Plaintiffs request a clarification of precisely what fees Kiernat is required to disgorge, and additionally ask the Court to reconsider its holdings regarding Kiernat’s duty to wind down the trust and whether Kiernat has fully paid \$53,000 in criminal

restitution. Kiernat asks the Court to limit the scope of the fees he is required to disgorge.

Neither party has presented new evidence or arguments to support their claims. Instead, the parties rehash the same arguments previously presented to this Court. Consequently, there is no basis for rehearing. To clarify any ambiguity in the Court's Order of January 6, 2006, the holding regarding the disgorgement of Kiernat's fees should be read to include fees received by Kiernat as either the trustee or as an attorney. The case will be remanded to the Bankruptcy Court for entry of judgment and resolution of any remaining issues.

Based on the foregoing, and all the files, records and proceedings herein, **IT IS**
HEREBY ORDERED that:

1. Plaintiffs' Motion for Rehearing [Docket No. 9] is **DENIED**;
2. Defendant's Motion for Rehearing [Docket No. 11] is **DENIED**; and
3. The case is **REMANDED** to the Bankruptcy Court for entry of judgment consistent with this Order and the Order of January 6, 2006 [Docket No. 8].

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: January 27, 2006.